



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF

Mark Paul Beecken,
Complainant

and

Wickes Furniture Company, Inc.,
Respondent

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CHARGE NO.: 2000 CF1972
EEOC NO.: 21BA 01369
ALS NO.: 11470

RECOMMENDED ORDER AND DECISION

This matter comes before the Commission on Respondent's second Motion to Dismiss ("Motion"), filed on September 20, 2001. Complainant did not file a response to the Motion. No reply was required from Respondent. A substitution of appearance was filed on behalf of Respondent on December 26, 2001. There is no further activity in this case reflected in the record. It is now ready for disposition.

Statement of the Case

The complaint in this case was filed on Complainant's behalf by the Illinois Department of Human Rights on February 23, 2001 and Respondent's verified answer was filed on May 8, 2001. Complainant did not appear at the initial status date for this matter on April 24, 2001. Respondent then filed its verified answer as noted above and, when Complainant did not appear at the rescheduled initial status date on May 9, 2001, it requested that the case be dismissed. Respondent was given leave to file a written motion to dismiss that was to be served on Complainant and the Department of Human Rights ("Department"). A new status hearing was set for June 13, 2001. Respondent's first motion to dismiss was filed on May 30, 2001. Complainant did not respond to this motion in writing, but he did appear on June 13, 2001 and the first motion to dismiss was denied. Complainant was given time additional time to find

counsel and a new status date was set for July 18, 2001 for the purpose of setting the discovery schedule for this case.

No attorney appearance was filed on behalf of Complainant prior to July 18th and he did not appear in his own person on that date. The next status date was set for August 22, 2001. However, to accommodate the impending changes in the case assignment system within the Administrative Law Section, the August 22nd date was stricken and a new status date of September 13, 2001 on my motion call was set. The parties were notified of this change by an order sent by me from the Commission on August 10, 2001. On September 7, 2001, Respondent requested by motion that the September 13, 2001 status date be vacated. In an order dated September 10, 2001, the motion was granted and the status date was reset for October 11, 2001. Respondent then filed the present Motion on September 20, 2001. On October 11, 2001, Complainant again did not appear and a briefing schedule was set for the Motion. Complainant was given 28 days to file a response to the Motion, but, as noted above, no response was filed.

Findings of Fact

1. Respondent, represented by counsel, was properly served with notice of this matter and timely filed its verified answer.
2. Although duly served with notice of the filing of his complaint and the several orders and motions filed in this matter at his last known address, Complainant has not filed an appearance or otherwise participated in the prosecution of this matter, appearing at only one of the five dates on which this case was scheduled on the Commission's motion call. He has not filed any notice advising the Commission that his address has changed from that used throughout the pendency of this case.

Conclusions of Law

1. Complainant is an "aggrieved party" and Respondent is an "employer" as those

terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

4. Because Complainant has failed to take any action with regard to this case, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

Discussion

It is a fundamental principle governing practice before this Commission that it is the singular responsibility of complainants to diligently pursue the disposition of the cases once they are docketed with the Commission. In this case, Complainant has not participated in the prosecution of it in any meaningful fashion. Because of the passage of time with no effective action on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute his case.

Recommendation

Leave is given for the substitution of appearance. It is recommended that Respondent’s Motion be granted and this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(D)(6).

HUMAN RIGHTS COMMISSION

ENTERED:

March 12, 2002

BY: _____

DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

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